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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91188736
Party	Plaintiff Anastasia Beverly Hills, Inc.
Correspondence Address	John M. May Anastasia Beverly Hills, Inc. 438 North Bedford Drive Beverly Hills, CA 90210 UNITED STATES John@May.us, dchavez@dchavezlaw.com
Submission	Answer to Counterclaim
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Signature	/JMM/
Date	06/25/2009
Attachments	A2CCBW.pdf (4 pages)(247020 bytes)

Plaintiffs and Cross Defendants Anastasia Beverly Hills, Inc. ("ABH"), Anastasia Soare ("AS") and Anastasia Skin Care Inc. ("ASC") jointly and severally answer Defendant's Counterclaims I and II as follows (each below numbered paragraph is directed to the correspondingly numbered paragraph of the Counterclaims):

1. ADMITTED that Opposer ABH is the owner of registration 2.798,069 and that it registered on Dec. 23, 2003; but DENIED that the registration is directed to the quoted goods. In particular, the quoted language is inaccurate in both wording (misplaced "and") and punctuation (comma vs semicolon).
2. ADMITTED.
3. DENIED. In particular, the undated Declaration signed by Opposer AS as President of Opposer ABH and mailed by Opposer ABH on August 5, 2003 did not include the quoted language, but rather spoke in the past tense ("has used") and did not refer to "all of the goods listed by the Examining Attorney"; moreover the quoted language from the Notice of Allowance is inaccurate in both wording and punctuation.
4. DENIED. In particular, paragraph 2 of the Counterclaim does not set out any goods, Opposer ABH has used and is still using the mark on goods other than those enumerated in paragraph 4; and, as noted above, the undated Declaration mailed on August 5, 2003 does not include all the quoted language.
5. DENIED. In particular, neither Opposer AS nor Opposer ABH submitted any Notice of Allowance, nor did either of them knowingly misrepresent "the nature of their use in commerce" in response to the Notice of Allowance.
6. DENIED.
7. ADMITTED that the PTO did grant the registration to Opposer ABH, but otherwise DENIED.
8. DENIED. In particular, Opposers AS and ABH did not know that any such statement of

first use was false.

9. DENIED. In particular, Opposer AS did not make any willful material misrepresentation in any such Declaration.

10. DENIED.

11. DENIED.

12. DENIED (on information and belief as to both damages and causation).

13. DENIED. Moreover, even if fraud were to be found to have been committed as to goods in one class, such a finding would not support cancellation of the entire registration.

14. ADMITTED that Opposer ABH is the owner of registration 2,821,892; but **DENIED** that it issued on Dec. 23, 2003 or that it is directed to the quoted goods. In particular, the quoted language is inaccurate in both wording ("bronzing liquid", "eyebrow color pencils") and punctuation (comma vs semicolon).

15. ADMITTED.

16. ADMITTED. However, the Amendment to Allege Use was dated Jun 19, 2001; was not signed by Opposer AS and was not attached to the Declaration signed by Opposer AS on May 22, 2001. Moreover the quoted language is incomplete and taken out of context.

17. DENIED. In particular, Opposer ABH has used and is still using the mark on goods other than those enumerated in paragraph 17; moreover, as noted above, the quoted language is incomplete and taken out of context.

18. DENIED. In particular, neither Opposer AS nor Opposer ABH knowingly misrepresented "the nature of their use in commerce" in connection with any Amendment to Allege Use.

19. DENIED. See above Answers to paragraphs 17 and 18. Moreover, the list of goods is inaccurate in both wording ("bronzing liquid", "eyebrow color pencils") and punctuation (comma vs semicolon).

20. ADMITTED that the PTO did grant the registration to Opposer ABH, but otherwise

DENIED (on information and belief).

21. DENIED. In particular, at no relevant time did Opposers AS and ABH know that any such statement of first use was false.

22. DENIED. In particular, Opposer AS did not make any willful material misrepresentation in any such Declaration and did not personally file any such Declaration or Statement of Use.

23. DENIED.

24. DENIED.

25. DENIED (on information and belief as to both damages and causation).

26. DENIED. Moreover, even if fraud were to be found to have been committed as to one class, such a finding would not support cancellation of the entire registration.

Signed on Wednesday, June 24, 2009 by Anastasia Soare for herself and as President
of ABH and ASC



CERTIFICATE OF SERVICE

A copy of this Answer to Counterclaim is being served today, Thursday, June 25, 2009, by email addressed to daphneb@earthlink.net , pursuant to agreement with Plaintiff's counsel.

/JMM/

John M May